

Environmental Protection Agency

§ 131.20

the Act if the State does not conduct a reevaluation consistent with the frequency specified in the WQS variance or the results are not submitted to EPA as required by (b)(1)(v) of this section.

(2) The supporting documentation must include:

(i) Documentation demonstrating the need for a WQS variance.

(A) For a WQS variance to a use specified in section 101(a)(2) of the Act or a sub-category of such a use, the State must demonstrate that attaining the designated use and criterion is not feasible throughout the term of the WQS variance because:

(1) One of the factors listed in § 131.10(g) is met, or

(2) Actions necessary to facilitate lake, wetland, or stream restoration through dam removal or other significant reconfiguration activities preclude attainment of the designated use and criterion while the actions are being implemented.

(B) For a WQS variance to a non-101(a)(2) use, the State must submit documentation justifying how its consideration of the use and value of the water for those uses listed in § 131.10(a) appropriately supports the WQS variance and term. A demonstration consistent with paragraph (b)(2)(i)(A) of this section may be used to satisfy this requirement.

(ii) Documentation demonstrating that the term of the WQS variance is only as long as necessary to achieve the highest attainable condition. Such documentation must justify the term of the WQS variance by describing the pollutant control activities to achieve the highest attainable condition, including those activities identified through a Pollutant Minimization Program, which serve as milestones for the WQS variance.

(iii) In addition to paragraphs (b)(2)(i) and (ii) of this section, for a WQS variance that applies to a water body or waterbody segment:

(A) Identification and documentation of any cost-effective and reasonable best management practices for nonpoint source controls related to the pollutant(s) or water quality parameter(s) and water body or waterbody segment(s) specified in the WQS vari-

ance that could be implemented to make progress towards attaining the underlying designated use and criterion. A State must provide public notice and comment for any such documentation.

(B) Any subsequent WQS variance for a water body or waterbody segment must include documentation of whether and to what extent best management practices for nonpoint source controls were implemented to address the pollutant(s) or water quality parameter(s) subject to the WQS variance and the water quality progress achieved.

(c) *Implementing WQS variances in NPDES permits.* A WQS variance serves as the applicable water quality standard for implementing NPDES permitting requirements pursuant to § 122.44(d) of this chapter for the term of the WQS variance. Any limitations and requirements necessary to implement the WQS variance shall be included as enforceable conditions of the NPDES permit for the permittee(s) subject to the WQS variance.

[80 FR 51048, Aug. 21, 2015]

§ 131.15 Authorizing the use of schedules of compliance for water quality-based effluent limits in NPDES permits.

If a State intends to authorize the use of schedules of compliance for water quality-based effluent limits in NPDES permits, the State must adopt a permit compliance schedule authorizing provision. Such authorizing provision is a water quality standard subject to EPA review and approval under section 303 of the Act and must be consistent with sections 502(17) and 301(b)(1)(C) of the Act.

[80 FR 51049, Aug. 21, 2015]

Subpart C—Procedures for Review and Revision of Water Quality Standards

§ 131.20 State review and revision of water quality standards.

(a) *State review.* The State shall from time to time, but at least once every 3 years, hold public hearings for the purpose of reviewing applicable water quality standards adopted pursuant to